

6/26/2007 Response to Office Action  
U.S.S.N. 10/689,167

Page 4

### REMARKS

Claims 11, 12, 14-21, 24-31, 33-35, 38, 39, 42-55 and 57 are pending. Claims 1-3, 6, and 10-39, and 42-55 and 57 are rejected. The applicant gratefully acknowledges the statement in the current Office Action that claims 42-51 contain patentable subject matter and would be allowed if rewritten in independent form.

Applicant respectfully requests reconsideration in view of the following claim amendments and remarks.

#### 35 U.S.C. § 112 REJECTIONS

Claim 39 is rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention. Claim 39 has been amended to properly recite the limitation of "substrate structure", which has antecedent basis. Applicant asserts that claim 39 is in good and proper condition for allowance.

#### 35 U.S.C. § 102(e) REJECTIONS

Claims 11, 12, 14-17 and 27 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Ma *et al.* (US 6,621,022). The Office Action states that Ma *et al.* discloses a MEM device comprising a movable mechanism residing adjacent a substrate, a diamond abrasion resistant material localized on a first portion of the movable mechanism and a first contact region localized on the substrate used to attract the movable mechanism towards the substrate such that the abrasion resistant material becomes operationally coupled to a second contact region residing on the substrate.

The applicant respectfully disagrees. However, to advance prosecution of this application, claims 11, 12, 14-17 and 27 are canceled without prejudice.

Claims 52-55 and 57 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Lin *et al.* (US 5,589,082). The Office Action asserts that Lin *et al.* discloses the method of the present invention.

Applicant respectfully disagrees. Claim 52 has been amended to include the limitation of

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6/26/2007 Response to Office Action  
U.S.S.N. 10/689,167

Page 5

claim 57. Claim 57 is correspondingly canceled. Lin *et al.* do not mention or suggest a "labyrinth path" for their method of fabricating a micro-machined apparatus. The applicant has described the labyrinth path as being an embodiment of the claimed method. The applicant states in the original specification, "because of the labyrinth nature of the tortuous path, the deposited sealant will not progress past the tortuous chamber opening" (paragraph 114). Lin *et al.* describe the sealing step as, "(t)he nitride coats all surfaces and since the channels 458 have relatively narrow aperatures they are sealed as shown in FIG. 7s." Therefore Lin *et al.* use a narrow aperature to exclude the deposited sealant, and do not mention or suggest a labyrinth path. Lin *et al.* does not anticipate the claimed invention because they do not contain all the elements of the claims, "arrange as in the claim." Applicant respectfully requests that the anticipation rejection of claims 52-55 and 57 be withdrawn.

### 35 U.S.C. § 103(a) REJECTIONS

Claims 11, 12, 14, 17-19, 27 and 28 are rejected under 35 U.S.C. §103(a) as being unpatentable over De Los Santos *et al.* '611 in view of Ma *et al.* '022.

Claims 20 and 21 are rejected under 35 U.S.C 103(a) as being unpatentable over Ma *et al.* in view of Lin *et al.*

Claims 24 and 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ma *et al.* in view of Lin *et al.* and further in view of Daneman *et al.* '887.

Claim 26 is rejected under 35 U.S.C. §103(a) as being unpatentable over De Los Santos *et al.* in view of Ma *et al.* and further in view of Lin *et al.* and further in view of Daneman *et al.*

Claims 29-31, 34, 35 and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over De Los Santos *et al.* '611 in view of Lin *et al.*

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Los Santos *et al.* in view of Lin *et al.* and in further view of Ma *et al.*

Applicant respectfully disagrees with the above mentioned 35 U.S.C. §103(a) rejections. However, to advance prosecution of this application, claims 1-38 are canceled. The rejections are rendered moot and should be withdrawn.

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6/26/2007 Response to Office Action  
U.S.S.N. 10/689,167

Page 6

In view of the remarks and amendments above, the applicant respectfully submits that the present application is in condition for allowance and solicits action to that end. If there are any additional matters that may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact applicant's undersigned representative.

5

Respectfully submitted,

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10

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6